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United States Courts Southern District of Texas FILED

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Midan M. Milby, Gerk

MARK NEWBY,	§	7\$		
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Plaintiff,	§	Civil Action No. H-01-3624		
		(Securities Suits)		
VS.	§			
	§	Consolidated with: H-01-3630;		
ENRON CORP. et al.,	§	H-01-3647; H-01-3652; H-01-3660;		
	§	H-01-3670; H-01-3671; H-01-3681;		
Defendants.	§	H-01-3682; H-01-3686; H-01-3717;		
	§	H-01-3733; H-01-3734; H-01-3735;		
	§	H-01-3736; H-01-3737; H-01-3789;		
	§	H-01-3838; H-01-3839; H-01-3889;		
	§	H-01-3903; H-01-3914; H-01-3993;		
	§	H-01-4009; H-01-4071; H-01-4106		
	§	H-01-4168; H-01-4189; H-01-4198		
PIRELLI ARMSTRONG TIRE	§			
CORPORATION RETIREE MEDICAL	8			

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

PIRELLI ARMSTRONG TIRE
CORPORATION RETIREE MEDICAL
BENEFITS TRUST, Derivatively On
Behalf of ENRON CORPORATION,

Plaintiff,

VS.

KENNETH L. LAY, et al.,

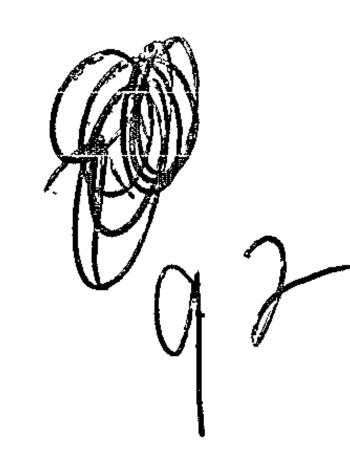
Defendants,

-and-ENRON CORPORATION, an Oregon Corporation,

Nominal Defendant

Civil Action No. H-01-3645 (Derivative Suits)

Consolidated with: H-01-3690; H-01-3892; H-01-3995; H-01-3996; H-01-3997; H-01-3998; H-01-4108; H-01-4248



PAMELA M. TITTLE, et al., on behalf	§		
of herself and a class of persons similarly	§		
situated,	§	Civil Action No. H-01-3913	
Plaintiffs,	§	(ERISA suits)	
	§		
Vs.	§	Consolidated with:	H-01-4063;
	§	H-01-4089; H-01-412	5; H-01-4128;
ENRON CORP., an Oregon	§	H-01-4150; H-01-420	8; H-01-3940
Corporation, et al.,	§		
	§		

Defendants.

DEFENDANTS' MOTION TO EXTEND TIME TO ANSWER, MOVE OR OTHERWISE PLEAD

TO THE HONORABLE LEE ROSENTHAL:

There are more than 45 cases that have been filed in the federal courts pertaining to the financial difficulties at Enron. Recently, this Court transferred all of those actions to this court and indicated they would proceed (for the time being) under three, general categories:

- Securities Actions to proceed under the caption of the Newby v. Enron Corp., et al.,
 C.A. No. H-01-3624;
- 2. Derivative Actions to proceed under the caption of *Pirelli Armstrong Tire Corp*.

 Defined Benefit Plan, et al. v. Kenneth L. Lay, et al., C.A. No. H-01-3645; and,
- 3. ERISA Actions to proceed under the caption of *Tittle v. Enron Corp., et al.*, C.A. No. H-01-3913.

¹This Motion is being filed on behalf of the following Defendants: Robert A. Belfer, Norman P. Blake, Ronnie C. Chan, John H. Duncan, Wendy L. Gramm, Robert K. Jaedicke, Charles A. LeMaistre, John Mendlesohn, M.D., Paulo V. Ferraz Pereira, Frank Savage, John Wakeham, Jerome J. Meyer, Herbert Winokur, Joe H. Foy, J. Clifford Baxter, Richard B. Buy, Richard A. Causey, Mark A. Frevert, Joseph M. Hirko, Stanley C. Horton, Steven J. Kean, Mark E. Koenig, Michael S. McConnell, Jeffrey McMahon, J. Mark Metts, Cindy K. Olson, Lou L. Pai, Kenneth D. Rice, Joseph W. Sutton, Kenneth L. Lay, Rebecca Mark-Jusbasche, Andrew Fastow, Jeffrey K. Skilling, James V. Derrick, Jr., Jack Urquhart and Arthur Andersen, L.L.P. In addition, counsel for Ken Harrison and counsel for Mary K. Joyce, Philip J. Brazelides and James E. Prentice have each indicated that those Defendants join in this Motion.

See Order Granting Motion to Consolidate at pg. 19.

There are significant management issues associated with this deluge of litigation. These include: (a) the interplay of Enron's bankruptcy with the pendency of these cases; (b) the effect of the Private Securities Litigation Reform Act and the Securities Litigation Uniform Standards Act on some or all of these cases; (c) what procedures should be put in place to coordinate discovery in these actions; and (d) when and on what schedule discovery should occur in light of both Enron's bankruptcy and the need to comply with various federal statutes before discovery can begin.

There is, as the Court noted, substantial overlay among the facts and claims alleged in these 45 cases. Clearly, there will only be one shareholder class action (with possible sub-classes) as a result of the provisions of the Reform Act. Similarly, to the extent there is a derivative claim at all, only one derivative claim may be pursued on behalf of Enron. Finally, although denominated as proceedings under ERISA, it may well be determined that the "ERISA Actions" are nothing more than disguised securities claims that are subject to the provisions of the Reform Act as well.

The Court need not decide these issues now. It is clear, however, that there is no purpose to be served by compelling more than 29 Defendants to answer--seriatim--45 separate actions alleging identical facts and claims. Such a course would result not merely in a tremendous waste of the parties' resources; it would impose significantly on the resources of this Court, as well.

Accordingly, the Defendants respectfully request that this Court enter an order staying their obligation to answer, move or otherwise plead in response to the pending and any subsequently filed actions. We request, as well, that the Court set an early Joint Scheduling Conference to determine the schedule on which pretrial motion practice and discovery should proceed in <u>all</u> of the matters. Once that schedule is determined, the Court can then establish a uniform answer and motion date

for the Defendants that will apply in all pending cases. A proposed form of Order is attached as Exhibit "A".

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this motion was served on all counsel of record on December 21, 2001 via hand delivery, certified mail, return receipt requested, federal express and/or facsimile:

CERTIFICATE OF CONFERENCE

We have conferred with counsel for a number of Plaintiffs, who indicated that they were not in a position to agree with this Motion, so it is filed as an opposed Motion.

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